



Notice Re: Commencing the Formal Cable Franchise Process
>From the PG I-Net Executive Committee

Many of you received a letter from Comcast earlier this year that referenced a formal renewal process for the cable franchise. Under federal law (47 U.S.C. 546(a)) a franchise authority must "commence a proceeding to identify future cable related needs and interests" within six months of receiving such a notice. This does not necessarily require a public hearing at the beginning, but should involve one at some time. What should happen is that each authority should "commence" by taking some act to begin the process. For example, Miller and Van Eaton (now Best, Best and Krieger), a noted cable law firm, states on its website:

"The Cable Act directs the franchising authority to commence a proceeding within six months from the date of submission of a renewal notice. The proceeding is to identify future cable-related community needs and interests and review the past performance of the cable operator 47 U.S.C. 546(a). "Proceeding" is an undefined term and is best read as any process that allows the community to develop and understand its needs and interests and the operator's past performance. The proceeding can go on as long as desired. The "needs and interests" and "past performance" ascertainment can be performed using a variety of tools, including public hearings, surveys, focus groups, interviews, and reports and audits of the operator's past performance. In some communities, this initial proceeding ends with the adoption of a staff report that lists the cable-related needs and interests of the community, and evaluates the operator's past performance."

Each franchising authority should *direct its staff to begin the process of ascertainment*, i.e. by referring it to their cable commission for a report on performance or by asking staff to prepare a plan for how to ascertain the needs and interests. This can be done by Council motion and Comcast should be notified of the action. The negotiation process, when we will all work together as part of a team, will also be part of the ascertainment, as it was the last time we did this.

College Park adopted the following wording last week:

I move, in response to a request for formal cable franchise renewal negotiations from Comcast dated June 1, 2011, to commence a proceeding under 47 USC 546 to determine cable related needs and interests. The process shall include public notice and participation. To begin, the issue is referred to the City's Cable Commission for review. City staff is authorized to send a letter notifying Comcast of this action.

Your municipality should take the same type of action, to preserve the right to proceed with a formal negotiation process. Please pay attention to the six month time deadline. Of course, you should confer with your municipal attorney with any questions.

A note from I-Net

—Graham